

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

**IN RE APPLICATION OF JULIO  
MIGUEL ORLANDINI-AGREDA AND  
COMPAÑÍA MINERA ORLANDINI  
LTDA. FOR AN ORDER TO TAKE  
DISCOVERY PURSUANT TO 28 U.S.C.  
§ 1782**

Case No. 1:17-mc-00029-LO-IDD

**THIRD-PARTY GONZALO SÁNCHEZ DE LOZADA’S MOTION TO QUASH  
SUBPOENA, OR, IN THE ALTERNATIVE, MOTION FOR PROTECTIVE ORDER**

Pursuant to Rule 45 of the Federal Rules of Civil Procedure, third-party Gonzalo Sánchez de Lozada (“Sánchez de Lozada”) (the former President of Bolivia), by and through undersigned counsel, respectfully submits this Motion to Quash Subpoena Issued Pursuant to 28 U.S.C. § 1782, served by Petitioners Julio Miguel Orlandini-Agreda and Compañía Minera Orlandini Ltda. (“CMO”) on December 18, 2017.

As more fully set forth in the accompanying Memorandum of Law, Petitioners seek discovery for a potential foreign arbitration. The Court granted Petitioners’ application for discovery pursuant to 28 U.S.C. § 1782. *See* Order at 1, Dec. 15, 2017, ECF No. 21. The subpoena is unduly burdensome and seeks expansive testimony and document production from Sánchez de Lozada, who will not be a party to Petitioners’ potential foreign arbitration against the Plurinational State of Bolivia (“Bolivia”). Sánchez de Lozada has searched all hard copies of documents in his possession, and has not located any responsive documents. Further, a search of reasonably accessible electronically stored information would require Sánchez de Lozada to review more than 100,000 electronic files, many of which are outside of the relevant timeframe.

Searching electronically stored information in response to this subpoena would be unduly burdensome and disproportional to the needs of the case, and the burden and expense of the proposed discovery outweighs its likely benefit. *See* Fed. R. Civ. P. 26(c)(1). In addition, Mr. Sánchez de Lozada, who is eighty-seven years old, has no specific knowledge of the events described in the subpoena. A deposition merely to confirm Mr. Sánchez de Lozada's lack of knowledge would be unduly burdensome, or, at a minimum, premature.

In the alternative, should the Court determine that the subpoena be enforced, Mr. Sánchez de Lozada respectfully moves for entry of a protective order, under Rule 26(c)(1), to protect him from the undue burden and expense of the proposed deposition at this time. Petitioners have yet to file an arbitration claim, and the scope of their claim remains uncertain. To protect Mr. Sánchez de Lozada from undue burden, he respectfully requests a protective order prohibiting his oral deposition until Petitioners have filed an arbitration claim against Bolivia, the scope of the arbitration is understood, and the arbitral tribunal permits discovery to commence. Further, he asks that any deposition (1) relate solely to the claims and defenses asserted in the arbitration, and (2) be conducted via written questions as opposed to oral testimony. Petitioners will have ample opportunity to pursue more convenient, less burdensome avenues for discovery, and are not prejudiced by the entry of a protective order when their arbitration is at its earliest stages. Moreover, Mr. Sánchez de Lozada requests that any order requiring compliance with the subpoena for documents be accompanied by a provision shifting the costs of such compliance to Petitioners.

At the time of filing this Motion, Mr. Sánchez de Lozada also files a Notice of Hearing. A proposed order is also attached.

Dated: January 10, 2018

/s/ Stephen D. Raber

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### **CERTIFICATE OF CONSULTATION**

I, Stephen D. Raber, hereby certify, pursuant to Rule 26(c)(1) of the Federal Rules of Civil Procedure and Rule 37(E) of the Local Rules for the U.S. District Court for the Eastern District of Virginia, that Elizabeth Wilson, of Williams & Connolly LLP, has conferred with Dawn Y. Yamane Hewett and Brian H. Rowe, Counsel for Petitioners, by telephone to attempt to resolve the discovery matters in controversy—namely, Petitioners’ request to search hard copies of documents previously determined to be non-responsive and Mr. Sánchez de Lozada’s request that Petitioners withdraw their notice of deposition of him. I further certify that, after a good faith effort, counsel have been unable to resolve these discovery matters.

## CERTIFICATE OF SERVICE

I hereby certify that, on January 10, 2018, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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